

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JAMES AVERY RUSH, IV

Plaintiff,

v.

Civil Action No. 2-03CV-0140J

NATIONAL BOARD OF MEDICAL
EXAMINERS,

Defendant.

PLAINTIFF'S UNOPPOSED MOTION TO AMEND
SECOND AMENDED RULE 16 SCHEDULING ORDER

Plaintiff moves the Court to amend the Second Amended Rule 16 Scheduling Order, as follows:

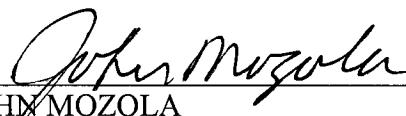
In the Second Amended Rule 16 Scheduling Order, which was agreed to by the parties and signed by the Court on October 31, 2003, the Court set a deadline of January 26, 2004 for all motions except motions in limine, motions to join parties, motions to amend pleadings, and motions for summary judgment. In a November 10, 2003 order, the Court specifically set a January 26, 2003 deadline for *Daubert* motions. Upon re-examination of this deadline it appears that, the date of January 26, 2004, is premature for *Daubert* challenges to expert witnesses, because the last expert depositions are not scheduled until perhaps as late as January 22 and 23, 2003.¹ It is not possible to have the transcripts of those depositions in time to meet a January 26, 2004 deadline for *Daubert* motions. Therefore, Plaintiff moves the Court to extend the date for *Daubert* motions to February 12, 2004.

¹ To accommodate the recuperation of Defendant's counsel, the parties are scheduling all depositions but one for the weeks of January 5, 12 and 19, 2003.

DATED: December 15, 2003.

Respectfully submitted,

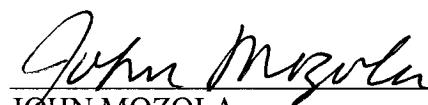
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JOHN MOZOLA

CERTIFICATE OF CONFERENCE

Prior to filing this motion, I conferred with Chris Stewart, one of the attorneys for Defendant, who informed me that Defendant does not oppose the motion.



JOHN MOZOLA

CERTIFICATE OF SERVICE

This is to certify that on December 15, 2003, a true and correct copy of the above and foregoing was served on counsel for the Defendant via hand delivery, addressed as follows:

Christian D. Stewart
GWIN & ROBY
600 Maxor Building
320 S. Polk
Amarillo, Texas 79101



JOHN MOZOLA